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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/602,044	06/23/2000	John Bronskill	203560	9040

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EXAMINER

HAVAN, THU THAO

ART UNIT	PAPER NUMBER
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2672

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/602,044

Applicant(s)

BRONSKILL ET AL.

Examiner

Thu-Thao Havan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection. The original non-statutory double patent is withdrawn.

Double Patenting

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims **1-39** are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-36 of prior U.S. Patent No. 6,201,549. This is a double patenting rejection.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

A.) Re claims **1 and 19**, claim 25 of patent number 6, 201,549 teaches claims 1 and 19 of the present application (col. 12, line 45 to col. 13, line 2). Claims 1 and 19 of the application recite the scope of invention of claim 25 in the patent number 6,201,549. It is apparent that claim 25 of patent number 6,243,099 discloses determining a first

polygon on the guideline, determining a first segment in the bitmap brush, and applying a first transformation to a bitmap image because the limitations explicitly teaches determining path points that are closest to the guide line path, determining and calculating an arc-length distance from an origin point on the path to the path point, and calculating the average of all looked-up pixel values. *In other words, a polygon of the present invention corresponds to the parametric form of a path. As claimed in patent no. 6,201,549, column 12, line 49 discloses "defining in parametric form a path of a guide line" is a type of polygon. A parameter is any of a set of physical properties whose values determine the characteristics of something. Therefore, a polygon consists of parameters that form a particular shape. Thus "parametric form a path" is a polygon.*

B.) Re claim 2, claim 1 of patent number 6, 201,549 claims all the limitations of claim 2 of the present application (col. 10, lines 17-31).

C.) Re claim 3, claims 4 and 5 of patent number 6, 201,549 claims all the limitations of claim 3 of the present application (col. 10, lines 40-45).

D.) Re claim 4, claim 21 of patent number 6, 201,549 claims all the limitations of claim 4 of the present application (col. 12, lines 20-32).

E.) Re claim 5, claim 30 of patent number 6, 201,549 claims all the limitations of claim 5 of the present application (col. 13, lines 32-42).

F.) Re claim 6, claim 28 of patent number 6, 201,549 claims all the limitations of claim 6 of the present application (col. 13, lines 23-25).

G.) Re claims **7-9**, claim 31 of patent number 6, 201,549 claims all the limitations of claims 7-9 of the present application (col. 13, lines 43-48).

H.) Re claims **10-11**, claim 33 of patent number 6, 201,549 claims all the limitations of claims 10-11 of the present application (col. 14, lines 9-22).

J.) The limitations of claims **12, 19-37, and 39** analyzed as discussed with respect to claims 1, 19, and 38 above.

H.) Re claims **13-18**, claim 6 and 12-24 of patent number 6, 201,549 claims all the limitations of claims 13-18 of the present application (col. 10, lines 46-55; col. 11, line 22 to col. 12, line 44).

Note: Re claim 13, please correct the spelling on page 29, line 15 for the word "thichness."

I.) Re claim **38**, claims 3, 6, 8, 10, and 19 of patent number 6, 201,549 teach claim 38 of the present application (col. 10, lines 35-64; col. 11, lines 6-17; col. 11, line 53 to col. 12, line 15). Claim 38 of the application recite the scope of invention of claims 3, 6, 8, and 10 in the patent number 6,201,549. It is apparent that claims 3, 6, 8, 10, and 19 of patent number 6,243,099 discloses a linearization module, a polygon generating module, and a mapping module because the limitations explicitly teaches the adding step, determining a plurality of normal points along the instantaneous normal lying within the guide line, and mapping a pixel selected from the bitmap brush to the point.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of

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the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158

USPQ 210 (CCPA 1968). See also MPEP § 804.

Inquiries

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu-Thao Havan whose telephone number is (703) 308-7062. The examiner can normally be reached on Monday to Thursday from 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi can be reached on (703) 305-4713.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231


or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Thu-Thao Havan
Art Unit: 2672
March 7, 2003



MICHAEL RAZAVI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600